

Barnes May Call Gov. Whitman

course, had no direct control over a department presided over by an elected officer.

Wants a Selected Ticket.
"I am sure you understand my feeling with regard to the whole matter. I am in favor of making up a ticket composed of men, every one of whom has been carefully selected with a view to his individual qualifications and fitness to discharge the duties of the government office for which he is a candidate, and all these state offices are great and powerful offices."

"The method by which such a selection can be presented to the people, of course, is provided by the direct nomination law."

"If such a ticket, so carefully selected, is to win at the primaries there must be united and concerted action and careful preparation on the part of those honestly interested, and I need not tell you that I am heartily and unqualifiedly in favor of the inauguration of such a movement."

Justice Andrews allowed to be read in court only the first paragraph of this letter.

"Did you believe the statements in that letter to be true?" asked Mr. Bowers of the Colonel.

"I did," the witness replied, emphatically.

"Did you rely upon the matter in that letter in writing the article that is the basis of this suit, and also in making the speeches last fall that have been referred to?"

The Colonel replied that he did.

It seems that this letter was received while the Colonel was still in South America and while Mr. Duell was preparing to try and swing the Progressives to the support of Mr. Whitman.

It was shown to the Colonel immediately on his return to this country. In May, when the young campaign manager went down the Bay to meet him, he heard the extract from the letter read, but he refused to comment on it.

Mr. Duell, who brought the letter to the trial, said that he had heard the extract from the letter read, but he refused to comment on it.

There were fifteen minutes left of the morning session, when Colonel Roosevelt stepped down from the stand. Immediately the defense put on the stand Philip V. R. Schuyler, who for sixteen years has been in the law department of the Mutual Life Insurance Company. He had a mysterious portfolio of papers, which had been prepared under subpoena. Mr. Schuyler had to go back to New York, and he was called simply to identify the papers, which will be placed in evidence later, as needed.

No Political Contributions.
"Were you able to find any record of political contributions by the company?" was the only leading question asked of the witness, who replied in the negative and was excused.

While he was on his way to take a train Mr. Schuyler was stopped and went on the witness stand for three minutes the first thing in the afternoon to testify that the company destroyed all its correspondence and vouchers after a period of ten years.

This out of the way, William H. Van Benschoten, for the defense, started to take up the anti-race track bill. Ex-Senator George B. Agnew testified that he had introduced the measure and two companion acts in the Legislature in 1908, the day after the Governor's message bearing on the subject.

The allegations of the defense are that Mr. Barnes showed himself to be a wicked boss by forcing Senator Henry J. Grattan, who represented his district, to vote against the bill after promising to support it. If Mr. Grattan had cast his affirmative vote on April 8, when the measure came up, the bill would have passed by one vote.

Counsel brought out from the witness that Senator Grattan prior to April 8 had promised to vote for the bill and then had changed his mind.

Q—Did you talk to Mr. Barnes about it? A—I did.

A Question of Loyalty.
Q—Please state your conversation. A—At the noon hour on the day of the vote came up, I went to the home of Mr. Barnes. I told him that the Senator had come to me in the morning and desired to take back his pledge. He said Mr. Barnes had told him the previous day that he could not vote for the race track legislation. I had come to Mr. Barnes's house to ask him if he realized the seriousness of the situation which made it necessary for Grattan to vote against the bill. I said I would damage Grattan's reputation both as a Senator and a citizen. He said he did not agree with me. He said the changing of his mind would be the making of him. I asked him why he changed his mind. He said it was good politics. I told him the Senator said to me he was sorry to break his word, but Mr. Barnes made so much of it and had done so much for him that it was a question of loyalty. Mr. Grattan said his district favored the bill and he was anxious to vote for them.

Evidence was then put in to show that the vote taken later in the afternoon was 25 to 25, and that Mr. Grattan's vote was recorded in the negative.

Next Mr. Van Benschoten took up with the witness the election of Jotham P. Allis as President pro tem of the Senate in January, 1910. He testified that seven Senators—Agnew, Brackett, Cordis, Cooper, Davenport, Newcomb and Rose—had stayed out of the Republican caucus, and on the floor of the Senate had voted for Senator Harvey D. Hinman. The vote was 7 to 24. When it came to electing Allis, six of the seven voted against him and twenty-four Republicans and ten Democrats voted for him.

"Our idea is to show," said Mr. Van

Benschoten, "that Senator Grattan leader of the Democrats, furnished the votes necessary to elect Allis."

Later, on cross-examination, Mr. Ivins tried to bring out the fact that it was not necessary to have twenty-five, a majority of the entire Senate, simply the majority of a quorum, in order to select a president pro tem. Senator Agnew said he did not know of that point, and had never heard of it.

Mr. Ivins asked the witness if he had testified to all his conversation with Mr. Barnes on the race track bill.

"No," he said. Mr. Ivins did not press this point, but Mr. Van Benschoten urged him to tell it all.

"I told Mr. Barnes," the witness said, "that I had come to his house because I wanted to know whether his attitude was correctly stated. I told him I had always stuck to him because I believed him to be a man of his word, and that if he had broken his word by making Grattan change his position, I was through with him." Whereupon Mr. Barnes asked him to luncheon, but he declined.

"I move to strike out all the testimony about Grattan and Allis," said Mr. Ivins, "in that it does not constitute a justification and does not show any conspiracy on the part of Mr. Barnes, and has no bearing on the relation of crooked business and crooked politics."

The motion was denied, but when William Loeb went on the stand a moment later the entire question of justification was brought up in a long argument between counsel, when an effort was made to get his testimony as to moral conditions in Albany.

William Loeb Takes Stand.
Mr. Loeb, who said he had been private secretary to Governor Roosevelt in 1909, when he first got to know him, and later had become secretary, then assistant secretary and secretary to the President in Washington, said his present business was mining and smelting. He had known the plaintiff since he returned to Albany after his graduation at Harvard. He had kept his voting residence in Albany up to six years ago, and was familiar with conditions there.

"Did you ever have a conversation with the plaintiff in regard to his power and control of the city of Albany and his acts therein in 1907?" Mr. Loeb was asked.

Mr. Ivins objected, and the court asked why the condition of politics in Albany was material.

"Because," said Mr. Van Benschoten, "the article is said of Mr. Barnes that he and Mr. Murphy are of the same moral and political type. If we find Mr. Barnes making political combinations to keep himself and his organization in power, that comes well within the meaning of the words."

The court said that the attempts to justify the publication would have to be confined to charges in regard to the state government.

"I agree," said Mr. Ivins, "that the point here is of the moral and political identity of Mr. Barnes and Mr. Murphy. But I submit that to prove identity of type is not susceptible of proof."

It was argued by Mr. Bowers that inasmuch as the charge was general it would be necessary to have wide latitude in the attempt to justify it; that it was important to bring out conditions in Albany, because that was the capital of the state.

"If this is to continue," broke in Mr. Ivins, "I shall ask that the jury retire."

Jury Asked to Retire.
"I agree with you," smiled Justice Andrews, and the jury filed out while legal technicalities were discussed back and forth for an hour. Almost every lawyer in the case took part at one time or another.

Mr. Bowers pointed to the allegations in the defense that the Lincoln League, a Barnes organization, assessed its members who held public offices a certain percentage of their salaries.

Justice Andrews said he did not know that such a thing was contrary to the corrupt practices act, and if it was not the evidence was not material.

"If everything we can prove is limited by the Penal Code," declared Mr. Bowers, "I submit that no fair construction can be given to the article. If this man founded the Lincoln League, I hold we should be permitted to prove it."

Reference was made to the allegation in the defense that members of the Barnes political organization had received work in gambling houses, but the court said that was not material, nor could it be if Mr. Barnes knew about it and did nothing, as he might have good reasons for his actions.

"There is some reference to the fact that Mr. Barnes knew about vice conditions in Albany," said Mr. Ivins, sarcastically. "Since the time of Ecclesiastes and the Epistle to the Romans everybody knows that vice exists. It doesn't make Mr. Barnes or Mr. Murphy responsible."

"If there was vice in Albany it was there when the Colonel was there as Governor. He should have known about it, and should have lived up to the man to stop it. At that time there was no 'Rule of Righteousness.'"

Fought Like a Lamb.
"When Mr. Bowers made his motion to dismiss the complaint at the opening of the trial," Mr. Ivins added, "he did not think anything he thinks now. He did not even charge that Mr. Murphy and Mr. Barnes had any part in rotten government. The article was a mere political argument, and there was no malice in it. The Colonel was kindly and gentle, fighting like a lamb."

Counsel defining the word "corruption" declared that the manifest deficiencies of political parties were not corruption; they were imbecilities.

The court ruled that the defense had absolutely failed to bring in any proof that Mr. Barnes was corrupt either because of the Lincoln League or gambling, and sustained the objection to asking Mr. Loeb about the moral condition of the city.

Mr. Loeb's testimony in regard to his conversation with Mr. Barnes on having Republicans help the independent Democrats to beat Charles F. Murphy in the 1911 Senatorship fight was disappointing. This was his story, brought out by the questions of counsel:

"It was about the time it seemed that it would be impossible for the Democrats to elect William F. Sheehan. I was in the office of J. S. Bache & Co., bankers, in Broadway, New York City, and was asked to stay to luncheon. Mr. Barnes came in, and also stayed to luncheon."

"On the way out I spoke to him about a communication I had with William L. Ward, in which I had asked him to see Mr. Barnes and get him to support an independent Democrat for

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Court Resents Liberties with Book Offered by Osborne's Friend at Safford Trial.
Benjamin Slade's disagreements with the court and opposing counsel added considerable ginger to yesterday's session of the trial of Franklin D. Safford, formerly clerk of the Kensington Hotel in Plainfield, N. J., charged with perjury. Most of the testimony tended to strengthen James W. Osborne's contention that he was in conference at the New York Bar Association on October 18, 1914, the date when Safford testified in Rae Tanzer's hearing Osborne had registered with her at the Kensington Hotel.
Frank Poole, assistant librarian in the Bar Association, testified that Osborne had engaged a room on that day. While Reuben Peckham, for ten years an assistant to James W. Osborne, was testifying, Mr. Slade had a sharp argument with United States District Attorney Marshall and Assistant United States Attorney Roger B. Wood.
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Harold Spielberg, counsel for Rae Tanzer, said, after court adjourned, that she would not testify in Safford's behalf.

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SLADE REBUKED FOR PEEK AT DIARY
Court Resents Liberties with Book Offered by Osborne's Friend at Safford Trial.
Benjamin Slade's disagreements with the court and opposing counsel added considerable ginger to yesterday's session of the trial of Franklin D. Safford, formerly clerk of the Kensington Hotel in Plainfield, N. J., charged with perjury. Most of the testimony tended to strengthen James W. Osborne's contention that he was in conference at the New York Bar Association on October 18, 1914, the date when Safford testified in Rae Tanzer's hearing Osborne had registered with her at the Kensington Hotel.
Frank Poole, assistant librarian in the Bar Association, testified that Osborne had engaged a room on that day. While Reuben Peckham, for ten years an assistant to James W. Osborne, was testifying, Mr. Slade had a sharp argument with United States District Attorney Marshall and Assistant United States Attorney Roger B. Wood.
Mr. Peckham had introduced a diary kept by him showing that he, James W. Osborne and Matthew D. Smith, former District Attorney of Queens, were together in a room in the Bar Association on Sunday, October 18. Soon after Mr. Slade began his cross-examination of the witness Mr. Marshall and Mr. Wood declared that Mr. Slade had perused another page of the diary not in evidence had sent to him. "You had that diary to the clerk!" demanded Judge Cough.
Commissioner C. S. Houghton, who conducted the examination of Rae Tan-

zer on a charge of misuse of the mails, limped into court on crutches and told of Safford's testimony before him that James W. Osborne was "Oliver" Osborne.
Owing to the death of the mother of Juror No. 12, William Rabbit, of 1431 Charlotte Street, The Bronx, Judge Hough adjourned court until 2 o'clock this afternoon.
Harold Spielberg, counsel for Rae Tanzer, said, after court adjourned, that she would not testify in Safford's behalf.

GIRL BURGLAR SITS DEFIANT AT TRIAL
Lillian Pablik, Twelve, Convicted of Raiding Queens Neighbors.
In Lillian Pablik, twelve years old, Jamaica, has a girl burglar. She was convicted yesterday before Justice Morgan M. L. Ryan, in the Children's Court. Sentence was deferred until Monday, when Dr. Schlapp, of the Post-Graduate Hospital, will have examined her for brain malformation.
Lillian lived with her mother and stepfather, many and Frank Landsdorf, at 1466 Nebraska Avenue, Dunton, Queens, until a week ago, when she was arrested for burglary.
She sat with downcast eyes, but no other signs of nervousness, while Mrs. Lena Miller, of 1180 Nebraska Avenue, told how the girl had entered her house through a cellar window, ransacked the ground and upper floors for rugs, portieres and lace bed sets, and carried them off while every one was asleep. Detective Worle, of the 8th District Detective Bureau, testified that Lillian had confessed to night burglaries committed in other houses in the neighborhood.
The girl merely shook her head de-

fiantly when Justice Ryan suggested in a kindly tone that she could tell her story to the court. Mrs. Landsdorf, the girl's mother, arrested on the charge of receiving stolen goods, was bailed out of jail to appear in court. She denied any knowledge of Lillian's midnight forays.

SIXTY-FIVE SHIPS IN REVIEW HERE
Washington, April 29.—Sixty-five vessels of the Atlantic fleet will pass in review before President Wilson in New York Harbor May 17. Secretary Daniels announced to-day that in the great naval parade would be the following:
Battleship Wyoming, flagship of Admiral Fletcher, commander in chief.
First division—Rear Admiral Mayo: Battleships New York, Texas, Delaware and North Dakota.
Second division—Rear Admiral Boush: Battleships Utah, Florida, South Carolina, Michigan and Kansas.
Third division—Rear Admiral Coffman: Battleships Virginia, Georgia, Rhode Island and Nebraska.
Fourth division—Rear Admiral McLean: Battleships Louisiana and New Hampshire.
Destroyer flotilla—Captain Sims: Cruiser Birmingham (flagship), ten destroyers, Macdonough, Drayton, Henley, Mayrant, McCall, Burrows, Ammen, Patterson, Paulding, Trippe, Fanning, Beale, Jarvis, Jenkins, Jouett, Cummings, Cassin, MacDougal, Balch, Benham and Parker.
Submarine flotilla—Commander Stirling: Cruiser Prairie (flagship), ten destroyers, Macdonough, Drayton, Henley, Mayrant, McCall, Burrows, Ammen, Patterson, Paulding, Trippe, Fanning, Beale, Jarvis, Jenkins, Jouett, Cummings, Cassin, MacDougal, Balch, Benham and Parker.
Auxiliary division—Commander Holmes: Repair ship Vestal, mine layer

San Francisco, tug Patuxent, Sonoma and Albatross; colliers Cyclops, Orion and Arctus.
New York May 8, while the submarine flotilla and auxiliary division are due the next day. The destroyers will be in the harbor by May 12.

ROOSEVELT ASSERTS IN FINAL EVIDENCE
That he wanted Seth Low to take the same attitude he (Roosevelt) did toward the Republican organization.
That he meant nothing derogatory in writing of any one as "Mr. Platt's man."
That he accepted the nomination for Vice-President to gratify President McKinley.<